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8 UNITED STATES DISTRICT COURT
9 NORTHERN DISTRICT OF CALIFORNIA
10 SAN JOSE DIVISION
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12 TIMOTHY GENS,

13 Plaintiff,

14 v.

15 VELLO CORPORATION, et al.,

16 Defendants.
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Case No.: C 10-3220 PVT

**ORDER TO STRIKING CONSENT TO
MAGISTRATE JUDGE JURISDICTION
PURPORTEDLY FILED ON BEHALF OF
DEFENDANT VELLO; AND**

**ORDER EXTENDING AND CONTINUING
DATES**

18 On October 5, 2010, this court issued an order to show cause why the “Consent to Proceed
19 Before a United States Magistrate Judge” that Plaintiff purportedly filed on behalf of Defendant
20 Vello Corporation (“Vello”) should not be stricken. Plaintiff Timothy Gens filed a response on
21 October 12, 2010. No other party filed any response. Based on Plaintiff’s response and the file
22 herein,

23 IT IS HEREBY ORDERED that the “Consent to Proceed Before a United States Magistrate
24 Judge” which was signed and filed by Plaintiff purportedly on behalf of Defendant Vello (docket no.
25 30) is STRICKEN from the record. As a corporation, Defendant Vello “may appear only through a
26 member of the bar of this Court.” See CIVIL L.R. 3-9(b). Plaintiff cites no authority for his
27 contention that a “Consent to Proceed Before a United States Magistrate Judge” does not constitute
28 an appearance by a party. In order to either consent or decline to proceed before a Magistrate Judge,


1 Defendant Vello must file a document properly signed and filed by a member of the bar of this court
2 pursuant to Local Rule 3-9(b).¹

3 IT IS FURTHER ORDERED that the deadline for Defendant Vello to file either a "Consent
4 to Proceed Before a United States Magistrate Judge," or else a "Declination to Proceed Before a
5 United States Magistrate Judge and Request for Reassignment" is extended to November 2, 2010.²
6 Plaintiff shall promptly serve a copy of this order on Defendant Vello by mail to either Defendant
7 Vello's agent for service of process or to any current officer of Defendant Vello other than Plaintiff.

8 IT IS FURTHER ORDERED that the hearing on Plaintiff Gens' motion to remand and his
9 motion for Rule 11 sanctions is CONTINUED to 10:00 a.m. on November 16, 2010.

10 IT IS FURTHER ORDERED that the Case Management Conference in this matter is also
11 CONTINUED to 10:00 a.m. on November 16, 2010.

12 Dated: 10/21/10

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14 PATRICIA V. TRUMBULL
15 United States Magistrate Judge
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24 ¹ Regarding Plaintiff's contention that Defendant Vello has waived its conflict of interest
25 with Plaintiff, even if Plaintiff were to file a written waiver properly executed by himself and Defendant
26 Vello the court is not inclined to allow one party to act as counsel for an opposing party in the same
litigation.

27 ² Defendant Vello is free, of course, not to make any appearance in this action. In that
28 event, the case will need to be reassigned to a District Judge due to the lack of consent of all parties
who have been served with the complaint. *Cf.*, *Neals v. Norwood*, 59 F.3d 530, 532 (5th Cir. 1995)
(noting that consent of parties who had *not* been served was not necessary for Magistrate Judge
jurisdiction).